

in view of the following remarks and Amended Summary of Claimed Subject Matter.

REMARKS

I. Special Consideration under MPEP § 707.02

An application, such as this one, pending five years or more should be the subject of "every effort" to conclude prosecution and should be considered "special." Appellant filed their original Appeal Brief almost one year ago, and has only now received this Notification. Furthermore, in response to the original Appeal Brief, Appellant has been subjected to the withdrawal of previously final rejections, only to be followed by additional searching and reassertion of nearly identical final rejections that had to be appealed for reasons that parallel the reasons set out in the original Appeal Brief. Appellant respectfully requests special consideration of this application in compliance with the provisions of MPEP § 707.02, rather than the protracted prosecution to which the application has been subjected.

II. Objections to Non-Compliance with 37 CFR 41.37(c)(1)(v)

Appellant respectfully submits that the Summary of Claimed Subject Matter in the Appeal Brief filed November 13, 2006 complies with 37 CFR 41.37(c)(1)(v). The Continuation Sheet attached to the Notification asserted that: (1) the "appeal brief does not contain a [sic] explanation of the subject matter as defined in the independent claims involved in the appeal brief," and (2) that in reference to the second sentence of 37 CFR 41.37(c)(1)(v), the Appeal Brief failed to "set forth the structure [sic], material, or acts described in the specification as corresponding to each claimed function" with reference to the specification and drawings such as in the independent claims of the application and with respect to "pp.5-6, p.7, III.2-3 and figs. 1-2, fig.5, block 140."

Regarding point (1), Appellant respectfully disagrees because the Appeal Brief included a concise three and a half page long explanation of the subject matter defined in the independent claims. The concise explanation referred to

the specification by page and line number as well as to the drawings by reference number. Nothing more is required. Regarding point (2), Appellant respectfully disagrees for the following reasons. The second sentence of 37 CFR 41.37(c)(1)(v) cited in the Notification requires that for “each independent claim involved in the appeal . . . every means plus function and step plus function . . . must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference numbers” (emphasis added). Thus, the “function” in the second sentence of 37 CFR 41.37(c)(1)(v) refers to the function of a means plus function or step plus function limitation. The Continuation Sheet omits this important distinction. None of the claims in the pending application contain means plus function or step plus function limitations. Therefore, Appellant respectfully submits that the second sentence of 37 CFR 41.37(c)(1)(v) does not apply to the pending claims involved in the appeal and that the objections in the Notification are in error.

III. Submission of Amended Summary of Claimed Subject Matter

In the interests of advancing the prosecution of this application and notwithstanding Appellant’s objections to the issue of non-compliance with 37 CFR 41.37(c)(1)(v), as discussed above, Appellant respectfully submits an Amended Summary of Claimed Subject Matter. Under MPEP § 1205.03, when the Office holds a brief to be defective solely due to failure to provide a summary of the claimed subject matter, as is asserted in the Notification, only a paper providing a summary of the claimed subject matter is required, and an entire new brief need not and should not be filed. Accordingly, Appellant submits an Amended Summary of Claimed Subject Matter below.

The Continuation Sheet asserted that the Appeal Brief does not contain an “explanation of the subject matter as defined in the independent claims involved in the appeal brief.” The Continuation Sheet further asserted that the Appeal Brief failed to “set forth the structure [sic], material, or acts described in the specification as corresponding to each claimed function with reference to the

specification by page and line number, and to the drawings such as in independent claims 1, 15, 18, 23, 26, 28, 34, 37, 42, 45, 57 [sic, 47], and 53, since the appellant does not positively describe that the structure [sic] material or acts described in the specification, pp.5-6, p7, III.2-3 and figs. 1-2, fig.5, block 140, as corresponding to each claimed functions/limitaitons [sic] such as 'not allowing communication between said source device and said second set of device [sic].'"

The claim language of "not allowing communication between said source device and said second set of devices" appears in independent claims 1, 28, and 47. The Amended Summary of Claimed Subject Matter provides a pinpoint reference to the specification and figures in the description pertaining to this feature.

Amended Summary of Claimed Subject Matter

The claims are directed to techniques for communicating data in a peer-to-peer network. In one implementation a request from a source device to access a network of devices is received. The network of devices includes one set of devices that have been authenticated or logged into the network under a particular identifier for those devices. The communication techniques determine with which devices the source device is authorized to access and communicate. In particular, the source device is allowed to communicate with the first set of devices when there is a correspondence between an identifier of the source device, and the particular identifier under which the first set of devices have been authenticated or logged into the network. In addition, the network includes a second set of devices that the source device is not authorized to access. Accordingly, an individual may connect to the network (e.g., with a laptop) and access other devices (e.g., an audio player) associated to that individual through a consistent identifier, while remaining unauthorized to access other devices associated with other individuals (e.g., because they have been authenticated under a different identifier).

Another feature includes searching for items on the first set of devices connected to the network and generating a playlist of items that exist on the first set of devices, where the items are located on different devices. Other features include attempting a second connection between a source device and a target device, via a proxy, if a first connection between the source device and target device is unsuccessful.

Independent claims 1, 28, and 47 are directed to a method, processor-readable storage devices for storing processor readable code, and an apparatus, respectively, for performing a method including receiving a request from a source device to access a network of devices, where the network of devices includes a first set of devices, which the source device is authorized to access, and which have been authenticated based on an associated identifier, and a second set of devices, which said source device is not authorized to access, said first set of devices being distributed across a global network (See, for example, Figs. 1-2; Fig. 5, block 140; Specification, pp. 5-6; p. 7, ll. 2-3);

determining that said source device is authorized to access said first set of devices based on a correspondence between an identifier of said source device and said associated identifier (See, for example, Figs. 1-2; Fig. 5, blocks 142-150; Specification, pp. 5-6; p. 7, ll. 3-20); and responsive to said determining step, allowing communication between said source device and said first set of devices, and not allowing communication between said source device and said second set of devices (See, for example, Fig. 1; Fig. 5, block 156; Specification, p2, ll. 15-30; p. 5, ll. 17-24).

Independent claims 15 and 34 are directed to a method, processor-readable storage devices for storing processor readable code, and an apparatus, respectively, for communicating data, including receiving a request from a source device to access a network of devices, where the network of devices includes a first set of devices, which the source device is authorized to access, and which have been authenticated based on an associated identifier, and a second set of devices, which said source device is not authorized to access (See, for example, Figs. 1-2; Fig. 5, block 140; Specification, pp. 5-6; p. 7, ll. 2-3); determining that said source device is authorized to access said first set of devices based on a correspondence between an identifier of said source device and said associated identifier (See, for example, Figs. 1-2; Fig. 5, blocks 142-150; Specification, pp. 5-6; p. 7, ll. 3-20); responsive to said determining step, identifying items on said first set of devices (See, for example, Fig. 5, block 156; Specification, p. 8, ll. 1-10); and responsive to said step of identifying said items, creating a playlist of said items on said first set of devices, said playlist includes items on different devices (See, for example, Fig. 5, block 156; Specification at pp. 5-6, p. 28-30).

Independent claims 18, 37, and 53 are directed to a method, processor-readable storage devices for storing processor readable code, and an apparatus, respectively, for communicating data, including logging a first device into a network of devices using a first user identification, said network of devices includes devices logged into said network using said first user identification and devices logged in to said network using one or more other user identifications, said one or more other user identifications include a second user identification

(See, for example, Figs. 1, 5, and Specification, p. 5, ll. 17-24); identifying said devices that are logged in to said network using said first user identification (See, for example, Fig. 5, block 152); and responsive to said step of identifying allowing said first device to communicate with said devices that are logged into said network using said first user identifications and not allowing said first device to communicate with said devices that are logged in to said network using said second user identification (See, for example, Fig. 1; Fig. 5, block 156, and Specification, p. 5, ll. 17-24).

Independent claims 23 and 42 are directed to a method and processor-readable storage devices for storing processor readable code for communicating data, including receiving a search request from a source device (See, for example, Fig. 7, block 200; Specification, p. 11, ll. 1-9); identifying a first set of devices, in a network of devices, wherein the source device is authorized to access the first set of devices, and the first set of devices have been authenticated based on an associated identifier, and wherein said identifying is based on a correspondence between an identifier of said source device and said associated identifier (See, for example, Fig. 5, blocks 152 and 154); responsive to the identifying step, accessing the a first set of devices, said network of devices also includes a second set of devices which said source device is not authorized to access (See, for example, Fig. 5, block 156); sending the search request to said first set of devices (See, for example, Fig. 7, block 204; Specification, p. 11, ll. 9-16); and receiving search results from said first set of devices (See, for example, Fig. 7, block 212; Specification, p. 11, ll. 18-30).

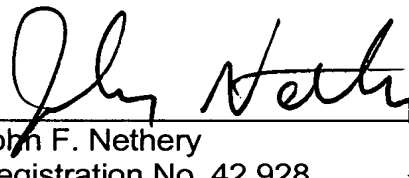
Independent claims 26 and 45 are directed to a method and processor-readable storage devices for storing processor readable code for communicating data, including receiving, from a requesting device, a request to transfer an item residing on a target device (see Fig. 10, block 340; Specification, p. 13, ll. 4-8); attempting to establish a first connection, between said requesting device and said target device, in response to said step of receiving (see Fig. 10, block 342; Specification, p. 13, ll. 9-11); transferring said item from said target device to said requesting device using said first connection if said attempt to establish said first connection was successful; sending a message to said target device via an

intermediate device if said attempt to establish said first connection was not successful (see Fig. 10, blocks 366, 368 and 380; Specification, p. 13, ll. 17-27); receiving an attempt to establish a second connection, between said requesting device and said target device via a proxy, if said attempt to establish said first connection was not successful (see Fig. 10, blocks 382, 384 and 386; Specification, p. 13, ll. 27-30); and transferring said item using said second connection if said attempt to establish said second connection was successful (see Fig. 10, block 388; Specification, p. 14, ll.1-3).

SUMMARY

Appellant respectfully requests the Examiner to withdraw the objections to the Appeal Brief and make this application the subject of every effort to conclude prosecution. Mr. Nethery invites the Examiner to call at any time if he can be of any further assistance with this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John F. Nethery", written over a horizontal line.

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